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**CLERK'S OFFICE
U.S. DISTRICT COURT
ANN ARBOR, MI**

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

MR. ERIC BOONE,
Plaintiff

vs.

Case: 4:21-cv-11366
Judge: Leitman, Matthew F.
MJ: Stafford, Elizabeth A.
Filed: 05-28-2021 At 01:54 PM
PRIS ERIC BOONE V USDOJ ET AL (SS)

[SUIT IN OFFICIAL AND INDIVIDUAL CAPACITY
[Plaintiff Request A Jury Trial
Under U.S. CONST. VII]}

UNITED STATES DEPARTMENT OF JUSTICE, et seq
MERRICK GARLAND, (Attorney General),
BUREAU OF PRISONS, (Director- Michael Carjaval),
FCI MILAN,(Warden, Jonathan Hemingway),
CHAD ELLISON (Counselor FCI Milan),
D. Reeber-Romero-Licata, (Case Manger Unit F1),
Mr. Burnette (Case Manager, MIL/RIS Coordinator),
Defendant(s)

MEMORANDUM OF LAW

- DEPRIVATION(S) OF LIFE, LIBERTY and PROPERTY [UNDER] THE ADMINISTRATIVE PROCEDURES ACT 5
U.S.C & 702

AND

DISCRIMINATION AGAINST AMERICANS WITH DISABILITIES(ADA) [AND] AFFORDABLE CARE ACT[ACA] AND

VIOLATIONS OF SUBSTANTIVE VESTED RIGHTS PURSUANT TO U.S. CONST. AMEND. IV, V, VIII,

Brief Written By,

Sean Fitzgerald Mescall

DATE 05-26-21

ERIC BOONE Eric Boone

P.O. BOX 1000

MILAN MI 48160

MEAN IN 40100

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EXHAUSTION OF REMEDIES I.

Boone, has been attempting to exhaust administrative remedies at FCI Milan, but cannot do so because of the character of the staff and nature of the facility. The scope of the process would be to informally complain, then file a BP-9, then a BP 10, and then when all else fails, a BP 11. Most of the time its not problematic- EVERYWHERE else in the Bureau Of Prisons. But here at the notoriously corrupt FCI Milan, the good old boys cannot but help to acquiesce the availability of [1.] Counselor in F Unit, [2.] Administrative forms that are supposed to be readily available and are not thus far. When Boone or any other inmate has a substantive issue- other than a regular complaint- the team in F unit cannot be found, or outright deny the inmate the forms. Or and even worse, threaten and lambast inmates who dare to challenge at a higher level anything out of the ordinary like petitioning the Court. Because of the unavailable forms, prejudice at the prison, and the fact that unit team consistently stalls- creating an indefinite timeframe to produce the forms-if ever-Boone has fully exhausted accordingly. (see) McCarthy vs. Madigan, 503 U.S 140(1992) [and], Ross vs. Blake 578 U.S. 2016 S.Ct No. 15-339.

FACTUAL BACKGROUND II.

Eric Antony Boone, (herein "Boone") has had a problematic experience at FCI Milan thus far. [A]nd, despite the fact he is nearing the end of his sentence, the hindrances continue to amount accordingly. Back yonder, and many, many moos ago, he became incarcerated for violations of vague federal statutes. But nonetheless, he is paying his debts to society at the notoriously corrupt institution FCI Milan.

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STATEMENT OF CLAIMS III.

The factual basis for the suit gives rise to Fourth, Fifth, and Eighth Amendment constitutional claims. {1.} First, I will address the access to the courts abrogation. Not only is near impossible to complain about substantive legal issues via administrative remedy forms, often, an inmates mail never gets to the required destination because the staff at the FCI milan either intercept the mail and discard, or hold the mail hostage creating delays with respect to court filings with due dates. Likewise, when administrative forms are finally obtained, if ever, they often do not get to the proper destination. Therefore this claim is violating access to the courts under the U.S. CONST and McNamara vs. Moody 606 F. 3d. 621 (5th cir 1979) also Tuner vs. Safley, 482 U.S. (1987). Chad Ellison is the [F]Unit counselor who usually is the one violating law and his conduct has nugatory interest with respect to the penal system. (See) Procunier vs. Martinez, 490 U.S. 78 (1987). Correspondence should be monitored at a de-minimus level and not intercepted, and discarded absent full of contrabnd. [AJND, FCI Milan's bogus defense is that the mail contained illegal substances when in truth and fact it does not. And this Court will be able to read the **depositions of inmates during the pendency of this suit via admissions. [A]dditionally, the staff at FCI Milan open legal mail not in front of the inmate even when its marked correctly. Merrick Garland is the Attorney General overseeing the violations at FCI Milan and is Respondeat Supior and therefore liable for the actions and inactions at the BOP FCI Milan. Further, the Director of the Bureau of Prisons Michael Carjaval allows the corruption at FCI Milan to go on endlessly. Either the Warden at FCI Milan, or the internal staff including Chad Ellison and or others are "covering up" what actually goes on at this facility. When deposed under oath, it will show to the contrary and I will find out through subpoena and request for admissions thereto.

Second, I will address the individual discrimination for halfway house placement. I have completed 9.5 years in the custody of the Attorney General with exemplary conduct except for a couple infractions. But, taking in the totality of the circumstances I have had good conduct. Ms. Reeber-Romero-Licata, the case manager for F Unit in FCI Milan, placed me under the guidelines promulgated the statute 18 U.S.C 3624. She told me verbatim "the State of North Carolina is only giving out a tiny amount of halfway house." This is untrue. I have spoken with other inmates in federal Custody with the same sentence and more dire mental situation and worse conduct to include numerous amounts of incident reports- extremely lower than mine and have received the "at least 6 months" required under the SECOND CHANCE ACT and up to 12 months after the implementation of the First Step Act. I should receive at least 6 months, but because of my good conduct as required under law, there is no penological reason I should receive only 4 months. And, I could be transferred to home confinement or any type of "Pre-release" custody. Ms. Romero-Licata, I believe, was ordered by Warden Hemingway, directed by Case Manager/RRC/RIS person, Mr. Burnette to give me de-minimus amount of pre release custody. I understand that there is no constitutional guarantee to placement, but Equal Protection of the law and Procedural Due Process in light of a liberty interest under the First Step Act requires equal application and non-discriminatory placement accordingly. Because I have been adjudged by the Courts with cognitive disabilities, and the Affordable Care Act forbids discrimination as the same including under the Americans With Disabilities Act, Ms. Romero-Licata- Warden Hemingway- and Director Carjaval who signs off on aforementioned, and being held by Merrick Garland, I have been discriminated against with zero constitutional and statutory reason under the five factors, (see) 18 U.S.C 3624(c)(1) and therefore they are all liable for their actions in connection with the deprivation of Liberty and discrimination thereto. Bottom line, I have no incidents, no reason for the low placement, and the halfway houses in North Carolina are willing to except me, and the BOP could still place me otherwise, to include pre-release custody and are not. Depositions will tell the truth-hopefully.

Next, I will address being segregated in the "hole" for an incident report I already was sanctioned for, served the punishment, and stripped of good time. But lo and behold, I was sent AGAIN to the Segregated Housing Unit for the same exact incident, dates time and violation. While double jeopardy does not exist inside the prison walls disciplinary context exactly, substantive rights do. Fundamental rights and vested rights are very much alive but get violated all the time at FCI Milan. In fact, the staff erroneously sent me to SHU for 5 weeks violating Wolff vs. McDonnell and Sandin vs. Conner. These cases bind the BOP with respect to procedural due process and policy. And, I did not receive any type of incident report and after arguing with the administration during their weekly "walk through" at the SHU, did they finally let me out into general population. This occurred from 02-11-21 all the way to 03-16-21 when the deprivation finally ended. While I was deprived of my "prison liberty" which was outside of the ordinary life there, I received an atypical hardship absent due process. I was starved, cold, denied medical attention (there is no "sick call" in the SHU) and could not get an officer to assist me because there is no "distress" buttons in the cells. Everywhere else in the BOP with respect to the SHU has a distress button. But FCI Milan has open cells with bars on them from the Flintstone age. Therefore, the administration feels that there is no need for the buttons, an inmate could just yell and be heard. There is one problem though, the officers don't answer because they believe that the yelling is amongst the inmates and not an emergency. This a hazardous and in violation of OSHA standards, substantive rights of inmates and a host of other laws. But FCI Milan will just make sure the paperwork looks good for Region and the Attorney General. I am looking to correct the corruption thereby. A request for admissions, subpoenas and depositions should uncover the truth accordingly.

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Finally, the water there in FCI Milan contains corrosives, chemicals, and is often murky. In fact, I have to drink this garbage and shower in it while Milan staff carry store bought water bottles. And, commissary does not sell water bottles so an inmate is forced to drink the corroded water and shower in it. The pipes are from the time when Noah's Ark was built. And, I would bet my last dollar, the pipes in FCI Milan are LEAD. In fact, when getting drinking water and because the pipes are so old, there are small pieces of debris or shake from the old pipes. And the pipes bust open often creating a security problem and inmates are often absent hot water. Often, which I would allude to once a quarter per year, pipes break and no water at all is available for 24 hours at a time. But the lead pipe situation is serious and confirmed by facility's officers and inmates that work in the prison. I will depose both accordingly. I have skin lesion, headaches, rashes and stomach problems because of FCI Milan's old worn out Black hole of Calcutta facility- and needs new pipes and administrators thereto. All defendants are liable.

CONCLUSION AND RELIEF REQUESTED

PURSUANT TO THE U.S. CONST. AMEND VII. PLAINTIFF REQUEST A JURY TRIAL ACCORDINGLY

Because the Department of Justice, The Attorney General, Federal Correctional Institution, Milan FCI and the staff named as defendants all violated the substantive Constitutional rights afforded to Eric Anthony Boone, AND he request the Court;

[1.] issue a injunction for the violations in connection with the suit as follows;

- [A.] ordering the FCI Milan facility to replace all old lead pipes,
- [B.] add a distress signal button in the segregated housing unit,(SHU),
- [C.]sell bottled water on commissary,
- [D.] have the water tested frequently and reported to the Court,
- [E.] order the Unit Team F counselor Ellison to not obstruct the administrative remedy process and hand out the forms as required,
- [F.] order Mrs. Reeber-Romero-Licata to adhere to statutory components pursuant to Second Chance Act, First Step Act and their statutory provisions and place Boone in pre-release custody immediately or request at least 10% of Boones sentence under the Acts requirements.

[2.] GRANT putative damages in the amount of \$ 1,250,000.00 United States Dollars

Suit Filed by,

Eric Anthony Boone pursuant to 28 U.S.C & 1915

Eric Boone Date 05-26-21
Briefs Written By

Sean Fitzgerald Mescall

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ALL DEFENDANTS ARE BE SUED IN THIER INDIVIDUAL AND OFFICIAL CAPACITY'S

Legal Mail / Special
Mail

Guil Doane 30189057
Federal Correctional Institution
P.O. Box 1600
Milan, MI 48160-0190



U.S. POSTAGE PAID
FOREVER USA
DETROIT, MI 48160-0190
AMOUNT \$0.00
R2305K13690746
48104 1000

U.S. District Court
Eastern Division
Attn: Clerk
Federal Building
200 East Liberty Street, Suite 120
Ann Arbor, MI 48104

U.S. MARSHALS

DETROIT
MICHIGAN

U.S. DEPT. OF JUSTICE, INSTITUTION

DATE: 5/28/2021

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FOR FORWARDING TO YOU. THE LETTER HAS
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PROBLEM OVER WHICH THIS FACILITY HAS
JURISDICTION. YOU MAY WISH TO RETURN
THE MATERIAL FOR FURTHER INFORMATION
OR CLARIFICATION. IF THE WRITER
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